

21 June, 2024

Mr. Ramy Youssef
Chair of Ad Hoc Committee

Dear Chair Youssef,

Re: ICRICT statement in response to the Chair's request to provide written comments on the Bureau's Proposal for the Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation, released on 7 June 2024.

As members of the Independent Commission for the Reform of International Corporate Taxation (ICRICT), we appreciate the opportunity to provide written comments on the Bureau's Proposal for the Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation.

We follow and support the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation, and we commend the Bureau for the valuable efforts made to achieve consensus on a "zero draft" Terms of Reference.

We welcome the inclusion in the zero draft of issues that we raised in our March 15 submission, in particular the need:

- To have a holistic scope and sufficient flexibility to ensure it is able to reflect and prompt changes in the international tax cooperation landscape and to deal with today's and tomorrow's challenges.
- To ensure a fair allocation of taxing rights between countries under the international tax system.
- To address the problem of the effective participation of developing countries in the negotiation of the framework convention.

We support the proposal that the framework convention should establish a system of governance for international cooperation. To this end, we believe that the convention should outline whether a new organization in the UN system should be created to support international tax cooperation, which could include the transformation of the Committee of Experts on International Cooperation in Tax Matters into an intergovernmental body.

Substantive elements of the Framework Convention

The convention should enable countries to mobilise the maximum available resources to meet pressing needs, including financing public services to ensure the fulfilment of human rights, fighting pandemics, addressing climate change, reducing inequality and ensuring non-discrimination and substantive equality, including gender equality.

These resources should be generated thorough progressive tax systems. Progressive taxes, particularly direct income taxes, are also a key channel for governments to reduce inequality. The framework convention should therefore include a commitment to promote progressive tax systems.

We strongly support the broad scope of the proposed TORs through the inclusion of commitments in the areas of fair allocation of taxing rights, including equitable taxation of multinational enterprises; effective taxation of high-net worth individuals; ensuring that tax measures contribute to addressing environmental challenges; transparency and exchange of information for tax purposes.

These commitments should enshrine the right of developing countries and emerging markets to impose fair, efficient, enforceable, and administratively simple tax measures.

The above commitments should be further expanded to encompass:

- *Equitable taxation of multinational enterprises, based on:*
 - Fair reallocation of taxing rights between countries, underpinned by the principle of unitary taxation and formulary apportionment of all profits of all large multinationals across different jurisdictions. This would require the development of a nexus rule based on the principle of significant economic presence, whereby a taxable presence will be created in the country when a non-resident enterprise has a significant economic presence, defined as purposeful and sustained interaction with the economy of that country.
 - Coordinated taxation of windfall or excess profits.
 - The strengthening of anti-avoidance instruments and principles such as a 25% global effective minimum tax on the profits of multinational corporations.
 - The development of coordinated mechanisms for digital services taxes.
 - Public country-by-country reporting of multinationals' economic activities

based on the robust Global Reporting Initiative standard for public reporting on tax (Tax:207).

- *Effective taxation of high-net worth individuals*, including common principles and minimum standards for the taxation of the very rich and the super-rich, and anti-avoidance instruments such as a global minimum tax on income and wealth (both flows and stocks). This should include a commitment by all countries to ensure effective taxation of wealth as a complement to taxation of income.
- *Transparency and exchange of information for tax purposes*, including common principles and minimum standards for ensuring transparency of wealth ownership. This should include the creation of a global asset register and global standards for asset registers with beneficial ownership identification (including for trusts which obfuscate beneficial ownership), including public data components and components to be shared through the automatic exchange of information among tax authorities.

Early protocols

We welcome the decision to include specific priority areas to be addressed in early protocols.

We believe that the negotiation of a UN framework convention provides a historic opportunity to revisit the recent efforts and advances in the fight to stop tax avoidance and evasion by multinationals and individuals, towards more comprehensive and effective solutions which fully take into account the needs and priorities of all countries. We therefore welcome the inclusion of the taxation of the digitalized and globalized economy and taxation of income derived from cross-border services in the specific priority areas to be addressed in early protocols.

There is growing international support for increased taxation on the very rich and super-rich, as shown by the Brazilian G20 Presidency's interest in discussing the creation of a coordinated global minimum tax on the super-rich. International cooperation and global agreements are key to making such proposals effective, and we therefore welcome the inclusion of the taxation of high-net worth individuals in the specific priority areas to be addressed in early protocols.

We hope the Ad-Hoc Committee will find our comments constructive and helpful in a way that validates the utility of such consultations. We are available to you to discuss any aspects of our comments in this letter.

Yours faithfully,

- Jayati Ghosh (co-chair)
- Joseph E. Stiglitz (co-chair)
- Valpy Fitzgerald
- Martín Guzmán
- Eva Joly
- Kim Henares
- Ricardo Martner
- Leonce Ndikumana
- José Antonio Ocampo
- Irene Ovonji-Odida
- Thomas Piketty
- Magdalena Sepúlveda
- Wayne Swan
- Gabriel Zucman